

Date: December 10, 2013

To: The Honorable Mayor and City Council

From: Tanya Wilson-Sejour, Planning Manager, Community Planning & Development

Re: Rezoning - 1401 NE 123 Street, North Miami

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, REZONING THE LOTS LOCATED AT 1401 NE 123 STREET, OTHERWISE DESCRIBED AS A PORTION OF LOTS 9, 10 AND 11 IN THE BETHEA SUBDIVISION, FROM R-6 (RESIDENTIAL) TO M-1 (INDUSTRIAL) ZONING DISTRICT; PROVIDING FOR CONFLICTS, REPEAL, SEVERABILITY AND AN EFFECTIVE DATE.

RECOMMENDATION

That the Mayor and Council approve the proposed ordinance to rezone the subject site from R-6 (Residential) to M-1 (industrial) zoning consistent with the requirements of Article 3, Section 3-1003 of the City's Land Development Regulations .

PLANNING COMMISSION RECOMMENDATION

At its meeting on November 5, 2013 the Planning Commission (attended by Commissioners, Castor, Ernst, Siefried, Prevatel and James) reviewed and discussed the resolution to amend the City's zoning map for the subject site. The applicant's agent Mr Frank Wolland gave a presentation and explained that the business is a nonconforming use and as such is constrained from expanding its operations. The owner wishes to rezone the site in order to conform with the City's zoning requirements. . The Commission generally agreed that the proposed request would remove the current hindrance to economic growth and allow for the future expansion and improvements to a longstanding local business. As part of the discussion the Board further recommended that applicant improve the façade of the current building and include lush landscaping to enhance its appearance along the NE 123 Street business corridor. As such, the Commission rendered a vote of 5-0 recommending approval of the proposed ordinance along with the additional conditions outlined in this report.

BACKGROUND

The subject property, located at 1401 Northeast 123rd Street, is identified as a portion of Lots 9, 10 and 11 with Miami-Dade County Folio 06-2229-047-0020, consists of 22,100 square feet or .51 acres in size and is currently zoned R-6, multifamily residential on the City's zoning map. The site is comprised of three adjacent and abutting lots, situated east of the railroad tracks, which have been occupied by a nonconforming automotive repair business for over 20 years.

1. It is consistent with the Comprehensive Land Use Plan in that it:

a. Does not permit uses which are prohibited in the future land use category of the parcel proposed for development;

The existing commercial use is currently prohibited in the underlying high density residential land use category. In addition to the rezoning request from R-6 to M-1 zoning, the applicant has simultaneously filed a request for a land use amendment from High Density Residential to Industrial Land Use in order to ensure consistency between the proposed zoning and land use designation.

b Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use category of the parcel proposed for development;

The current R-6 zoning permits a maximum height of 110 feet and maximum density of up to 25 dwelling units per acre which would yield 13 units on site as of right. The proposed request would instead change the site from the current residential zoning to an industrial zoning with a maximum lot coverage of 80% and maximum height of 55 feet. If approved, the applicant will not be permitted to exceed the development standards established in the new Industrial zoning category.

b. Will not cause a decline in the level of service for public infrastructure to a level of service that is less than the minimum requirements of the Comprehensive Land Use Plan;

The subject site is located on NE 123 Street, which is classified as a State owned (FDOT) minor arterial road. The City's Transportation Master Plan indicates that the roadway segment that will provide primary access to the property (NE 123 Street) is operating at a level of service (LOS) B. It should be noted that Policy 2A 1.1 of the City's Comprehensive Plan requires that all roadways in the City shall operate at or above a LOS standard E. Additionally, the city of North Miami is designated as a Transportation Concurrency Exemption Area and Objective 2A.2 and Policy 2A.2.7 of the City Comprehensive Plan requires that the City actively pursue multimodal strategies to encourage a more pedestrian oriented environment that promotes walking, bicycling and public transit usage.

As part of the next approval phase the applicant will be required to submit a site plan and traffic analysis to the Development Review Committee in order to identify the exact traffic impacts of the proposed development and determine if any mitigation is necessary. If it is determined that the future redevelopment of the site may potentially cause adverse impacts on any of the City's current or future infrastructure, the property owner would be required to mitigate these impacts that exceed the established level of service for a given public facility.

c. Does not directly conflict with any goals, objective or policy of the Comprehensive Land Use Plan;

The proposed rezoning requests is consistent with the City's Comprehensive Plan, specifically Policy 9.4.6 which requires that the City "Create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry". In its current non conforming state the business is hindered from any future expansion or addition. Given the foregoing staff believes a rezoning is necessary for the future progress of the subject business.

d. Is physically suitable for the use permitted in the proposed district;

The proposed rezoning seeks to ensure the future expansion of an existing business that has been at its current location for over 20 years. The site fronts on a major commercial corridor and is physically suitable for the continued operation and expansion of an existing non-residential use.

e. Is compatible with the surrounding areas, zoning designations(s) and existing uses.

The property is abutting or adjacent to the following uses (see attached zoning map):

Surrounding Zoning

N: R-6, Multifamily Residential
S: M-1, Industrial
E: R-6, Multifamily Residential
W: C-3, Commercial

Surrounding Land Use

N: High Density Residential
S: industrial
E: High Density Residential
W: Commercial

Although the use is currently non-conforming, the business has a long history (over 20 years) at the current location and is compatible with the other multi-residential and non-residential uses surrounding the subject site.

2. Will provide a benefit to the City in that it will achieve two (2) or more of the following objectives:

- **Promote high-quality development or redevelopment in an area that is experiencing declining or flat property values;**

The proposed rezoning supports the future growth and development of the City's urban core by providing an environment that allows for the future expansion of a long standing local business that is restricted from further growth due to its non-conformity with the current

zoning regulations. If approved the business is afforded the opportunity to redevelop the site, add landscaping and improve the image of one of North Miami's major thoroughfares.

- **Implement specific objectives and policies of the Comprehensive Land Use Plan;**

The proposed rezoning request is consistent with the goals, objective or policy of the Comprehensive Land Use Plan, specifically Policy 9.4.6 which requires that the City "Create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry"

- **Improve environmental quality by adopting "green initiatives" through leadership in energy and environmental design (LEED) consistent with the Green Building Rating System Version 2.2 as amended;**

Per Section 5-805 of the City's LDR all new construction is required to incorporate LEED standards or the City's alternative green standards as part of its new development in order to support the City's environmental initiatives. It is recommended that the applicant incorporate sustainable elements in the future project with energy saving fixtures to minimize the water and electric consumption of the future development.

3. Will not cause a diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use.

The proposed rezoning will make way for the future expansion and retention of a longstanding local business along a major City Corridor. As proposed the redevelopment of the site is anticipated to greatly improve the image of the site and enhance the overall appearance of that segment of the corridor. As such efforts to improve the site is anticipated to have a positive impact on neighboring properties and enhance the aesthetics of the area.

B. An applicant may propose limitations regarding the use, density or intensity which will be permitted on the parcel proposed for development in order to achieve compliance with the standards of this section. Such limitations shall be offered by a restrictive covenant or declaration of use that is provided to the City in recordable form acceptable to the City Attorney.

The applicant is encouraged to provide lush landscaping and screening along the front of the subject property in order to enhance the appearance of the commercial corridor along NE 123 Street.

CONCLUSION

Based on our analysis, staff is of the opinion that the proposed rezoning request is consistent with the zoning guidelines in the City's Land Development regulations and is compatible with the future land use goals objectives and policies identified in the City's adopted Comprehensive Plan. Therefore staff requests the City Council approves the attached

ordinance, amending the zoning map of the City of North Miami for the subject with the following conditions:

1. The applicant is required to obtain site plan review and approval for the proposed new development prior to obtaining final building permits. As such the applicant shall contact the City's Zoning Administrator in order to submit plans for Development Review Committee (DRC) approval.
2. As part of the future business expansion the applicant is required to make building façade and landscaping improvements to the front of the subject property in order to enhance the appearance of the business corridor along NE 123 Street.
3. Per Section 5-805 of the City's LDR all new construction is required to incorporate LEED standards or the City's alternative green standards in order to support the City's environmental initiatives. As such any future building construction contemplated onsite must be environmentally sustainable with energy saving fixtures to minimize the water and electric consumption of the future development.
4. The applicant voluntarily agrees to limit the sites use solely for the following uses: auto service station, automotive/mechanical, vehicle rentals, vehicle service minor, vehicle washing, waxing and detailing. Said limitation shall be included in a restrictive covenant and shall constitute a covenant running with the land and be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida.
5. The applicant shall submit a draft declaration of restrictive covenant to the office of the City Attorney at least 30 days from final Council approval date for review prior to final recordation. The applicant will also furnish a copy of the recorded document to the Community Planning & Development Department once the instrument has been recorded with the County.

Attachments: 1. Proposed Ordinance
2. Location Map & Site Survey
3. Zoning Map
4. Letter of intent

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED “LAND DEVELOPMENT REGULATIONS”, BY AMENDING THE CITY OF NORTH MIAMI OFFICIAL ZONING MAP REFERENCED IN ARTICLE 1, SECTION 1-106, TO REFLECT THE REZONING OF THE LOTS LOCATED AT 1401 NORTHEAST 123RD STREET, OTHERWISE DESCRIBED AS A PORTION OF LOTS 9, 10 AND 11 OF BETHEA SUBDIVISION, FROM THE CURRENT R-6 (RESIDENTIAL) ZONING DESIGNATION TO M-1 (INDUSTRIAL) ZONING DESIGNATION, IN ORDER TO ALLOW FOR THE FUTURE EXPANSION OF AN EXISTING BUSINESS, CONSISTENT WITH THE INTENT OF THE CITY OF NORTH MIAMI COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, Shani Management, Inc. (“Applicant”), filed an application with the City of North Miami (“City”) Community Planning and Development Department, to initiate a zoning map amendment to rezone the subject property located at 1401 Northeast 123rd Street, identified as a portion of Lots 9, 10 and 11 with a Miami-Dade County Folio Number 06-2229-047-0020, consisting of 22,100 square feet or .51 acres in size (“Subject Property”); and

WHEREAS, the Applicant seeks to rezone the Subject Property from the current R-6 (Residential) zoning designation to M-1 (Industrial) zoning designation, in order to expand the existing business and provide additional services to the public; and

WHEREAS, the Subject Property is comprised of three (3) adjacent and abutting lots which have been occupied by a non-confirming automotive repair business for many years; and

WHEREAS, Section 6-202 of the City Code of Ordinances, Land Development Regulations (“LDRs”) prohibits the expansion, enlargement or extension of nonconforming uses; and

WHEREAS, the Applicant proposes to rezone the Subject Property in order to make the longstanding non-conforming automotive repair business a legal permitted use; and

WHEREAS, Policy 9.4.6 of the City Comprehensive Plan (“Comprehensive Plan”), requires that the City “create land use designations and zoning regulations that encourage the retention, attraction and expansion of business and industry”; and

WHEREAS, Policy 9.4.2 of the Comprehensive Plan, further requires that the City introduce employment generating uses along major transportation corridors, ensuring that employment generating land uses are compatible with the character of the neighborhood, through revisions in development regulations and permit review requirements; and

WHEREAS, the proposed application is consistent with the vision of the Comprehensive Plan in that it allows for the future redevelopment and expansion of a longstanding viable business that will increase property value, generate additional tax revenue and create new employment opportunities for City residents; and

WHEREAS, the Planning Commission, after a duly noticed public hearing held on November 5, 2013, found the proposed rezoning application met the requirements of Article 3, Section 3-1003 of the LDRs, and is in harmony with the goals, objectives and policies of the Comprehensive Plan, and thereby recommended approval to the Mayor and City Council; and

WHEREAS, the Mayor and City Council, hereby accept the Planning Commission’s recommendation and find that the proposed rezoning application is consistent with the intent of the Comprehensive Plan and is therefore, in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Rezoning of Property and Amendment to Official Zoning Map. The Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 29 of the City of North Miami Code of Ordinances, entitled “Land Development Regulations”, by amending the City of North Miami Official Zoning Map referenced in Article 1, Section 1-106, to reflect the rezoning of the lots located at 1401 Northeast 123rd Street, otherwise described as a portion of Lots 9, 10 and 11 of Bethea Subdivision, from the current R-6 (Residential) zoning designation to M-1 (Industrial) zoning designation, in order to allow for the future expansion of an existing business, consistent with the intent of the City of North Miami Comprehensive Plan.

Section 2. Conflicts. All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 5. Effective Date. This Ordinance shall not become effective until thirty one (31) days after adoption on second reading, if not otherwise challenged.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2013.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2013.

LUCIE M. TONDREAU
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Lucie M. Tondreau	_____ (Yes)	_____ (No)
Vice Mayor Scott Galvin	_____ (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	_____ (Yes)	_____ (No)
Councilperson Philippe Bien-Aime	_____ (Yes)	_____ (No)
Councilperson Marie Erlande Steril	_____ (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.

**FRANK WOLLAND
ATTORNEY AT LAW
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North Miami, FL 33161**

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September 9, 2013

Community Planning and Development
12400 N.E. 8th Avenue
North Miami, Florida 33161
(305) 895.9825

Re: Letter of Intent Regarding the Land Use Designation and Re-Zoning of 1401 NE 123rd Street

Dear City Planning Commissioners and City Councilpersons,

Our Client, Shani Management (a.k.a. Brake and Auto Specialists), is an auto repair facility located at 1401 NE 123rd Street, near Arch Creek Road, in North Miami, Florida. Currently the property where the facility is located is zoned as an R-6 designation. Mr. Ziv Rapaport, the president of Shani Management and the owner of Brake and Auto Specialists, would like to expand the business to include car washing and car rentals. This expansion however, would not be permitted under the current zoning restrictions. We believe that it may be advisable for the property to be re-designated as M-1 industrial use, which would allow the use of not only auto repair, but also car washing and car rentals. In addition, to further our Client's intent to expand his business and to promote a better economy in the City of North Miami, we respectfully ask that the City Planning Commission and City Council Members approve an amendment to the Land Use Plan, changing the current land use designation from Residential High to Industrial. Thank you.

Most Cordially,

Frank Wolland
Attorney at Law
12865 West Dixie Highway
North Miami, FL 33161
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Fax (305) 892-8434
fwolland@wolland.com

RECEIVED

**OCT 15 2013
COMMUNITY PLANNING
& DEVELOPMENT**

City of North Miami - Zoning Map

ADOPTED BY ORD. 1297 ON APRIL 6, 2010

Legend

- Florida International University
- Arts & Design Overlay District
- Regional Activity Center
- State of Florida Land
- North Miami Municipal Boundary
- Central City District Node Boundary
- Neighborhood Redevelopment Overlay Boundary
- Biscayne Park Height Transition Zone
- Water

- C-1
- C-2BE
- C-2BW
- C-3
- M-1
- PD
- PU
- R-1
- R-2
- R-4
- R-5
- R-6
- RO

Abandonments		
Map Key	Type	Resolution
1	Right-of-way	R 87-1
2	Right-of-way	R 87-7 amended by 87-18
3	Right-of-way	R 87-32
4	Alleyway	R 89-29
5	Right-of-way	R 89-55
6	Alleyway	R 90-16
7	Right-of-way	R 91-44
8	Right-of-way	R 92-2
9	Alleyway	R 93-40
10	Alleyway	R 95-35
11	Right-of-way	R-2001-34 & R 2002-76
12	Alleyway	R 2004-55
13	Right-of-way	R 2006-138 & R 2006-139
14	Alleyway	R-2006-137
15	Alleyway	R-2006-140
16	Right-of-way	R 2008-32
17	Sidewalk	R 2008-68
18	Sidewalk	R 2008-69
19	Alleyway	R 2011-34
20	Right-of-way	R 2012-63
21	Right-of-way	R 2012-62

